

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

In re:

**DANA J. SNYDER
and HEATHER E. SNYDER,

Debtors.**

Case No. 14-41766-drd7

**NANCY J. GARGULA,
UNITED STATES TRUSTEE,**

Plaintiff,

v.

Adversary Case No.

**PATRICK S. MORRIS SR.
7900 E. Union Ave., Suite 1100
Denver, CO 80237**

Defendant.

**COMPLAINT FOR MONETARY SANCTIONS AND INJUNCTIVE RELIEF
PURSUANT TO 11 U.S.C. § 110**

Plaintiff Nancy J. Gargula, United States Trustee for Region 13 ("**Plaintiff**" or "**United States Trustee**"), by and through counsel, states and alleges:

Jurisdiction and Venue

1. This is an adversary proceeding in which the Plaintiff seeks sanctions and injunctive relief against Patrick S. Morris ("**Defendant**"), for alleged violations of 11 U.S.C. § 110 in case number 14-41766.
2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) & (O) over which the Court has jurisdiction pursuant to 28 U.S.C. §§ 1334(b), 157(a), and 157(b)(1) and 11 U.S.C. § 110.
3. Venue is proper pursuant to §§ 1408 and 1409.

Parties

4. Pursuant to 28 U.S.C. § 581(a)(13), the Plaintiff is the duly appointed United States Trustee for Region 13, which encompasses the Western District of Missouri. The Plaintiff has standing and files this complaint in her official capacity pursuant to 11 U.S.C. § 110(h)(4), (i)(1), (j)(1), and (l)(3).
5. Upon information and belief, the Defendant acted as a bankruptcy petition preparer as that term is defined by 11 U.S.C. § 110(a)(1) in case number 14-41766 (the “Bankruptcy Case”). Further, upon information and belief, the Defendant prepared documents for filing, as that phrase is defined by 11 U.S.C. § 110(a)(2), in the Bankruptcy Case.

Allegations Common to All Counts

6. Upon information and belief, the Debtors Dana J. Snyder and Heather E. Snyder met the Defendant through a “short sale” attorney.¹
7. Upon information and belief, the Defendant prepared the Debtors’ bankruptcy schedules, statements, and related documents for filing in the Bankruptcy Case.
8. On May 23, 2014, the Debtors paid the Defendant \$300.00 through Western Union.
9. Further, upon information and belief, the Defendant explained to the Debtors the following:
 - a. Whether or not to file bankruptcy.
 - b. The difference between bankruptcy cases under Chapter 7, 11, 12, or 13.
 - c. Whether the Debtors’ debts would be discharged.
 - d. Whether the Debtors’ should select state or federal property exemptions.
 - e. Whether the Debtors would have the ability to retain their home, car, or other property after bankruptcy.

¹ As indicated on the Debtors’ Declaration for Bankruptcy Filers Who do not Have an Attorney.

- f. Whether the Debtors should enter into an agreement with a creditor or reaffirm their debt.

Count I - Violation of 11 U.S.C. § 110(e)(2)

- 10. Paragraphs 1-9 of this complaint are incorporated by reference.
- 11. Upon information and belief, the Defendant acted as bankruptcy petition preparer, as that term is defined in 11 U.S.C. § 110(a)(1), by preparing the petition, schedules, statement of financial affairs, and related documents for filing in the Bankruptcy Case in exchange for the compensable sum of \$300.00.
- 12. In the course of the Defendant's conduct with the Debtors, including but not limited to preparing the Debtors' bankruptcy petition, schedules, and statements, he provided the Debtors with legal advice. Specifically, but not limited to:
 - a. Whether or not to file bankruptcy.
 - b. The difference between bankruptcy cases under Chapter 7, 11, 12, or 13.
 - c. Whether the Debtors' debts would be discharged.
 - d. Whether the Debtors should select state or federal property exemptions.
 - e. Whether the Debtors would have the ability to retain their home, car, or other property after bankruptcy.
 - f. Whether the Debtors should enter into an agreement with a creditor or reaffirm their debt.

WHEREFORE, the United States Trustee prays for an order and judgment of this Court finding that Patrick S. Morris has violated 11 U.S.C. § 110(e)(2).

Count II - Violation of 11 U.S.C. § 110(h)(3)

13. Paragraphs 1-12 of this complaint are incorporated by reference.

14. Pursuant to 11 U.S.C. § 110(h)(3)(A)(ii), the Court shall disallow and order the immediate turnover to the bankruptcy trustee any fee found to be in excess of the value of any services provided by the bankruptcy petition preparer.

15. Pursuant to this Court's decision in *In re Mullikin*, 231 B.R. 750, 753 (Bankr. W.D. MO 1999), a bankruptcy preparer may charge no more than \$150.00.

16. The Defendant charged the Debtors \$300.00 in service fees, which the Debtors paid through Western Union.

17. Accordingly, the fees charged by the Defendant were excessive.

WHEREFORE, the United States Trustee prays for an order and judgment of this Court finding that the fees charged by Patrick S. Morris were excessive.

Prayer for Relief

18. The Plaintiff prays the Court's order and judgment:

- a. requiring the Defendant to provide an accounting of each instance in which "*pro se*" filings were prepared for debtors in this judicial district, and an accounting of all funds received in all such instances;
- b. disallowing and ordering the immediate turnover of all fees collected by the Defendant in this case, and in every other case in which "*pro se*" filings were prepared by the Defendant for debtors in this judicial district, pursuant to § 110(h)(3)(B);
- c. imposing a fine on the Defendant of not more than \$500 for each violation of § 110 found by the Court, pursuant to § 110(l)(1);

- d. enjoining the Defendant from engaging in further conduct in violation of § 110; pursuant to § 110(j)(1); and
- g. such further relief as the Court deems just and proper.

Date: July 28, 2014

Respectfully submitted,

NANCY J. GARGULA
UNITED STATES TRUSTEE

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